IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD NOVEMBER 2006 / 2ND AGRAHAYANA 1928

Crl.MC.No. 3824 of 2006()

CC.1072/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM

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PETITIONER: ACCUSED

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1. SHAJI, S/O.LAWRANCE,
   SHANI BHAVAN, PERAYAM, KUNDARA, KOLLAM.

2. MARYKUTTY, W/O.SHAJI,
   SHANI BHAVAN, PERAYAM,
   KUNDARA, KOLLAM.

3. SAJEEVKUMAR M.H.,
   S/O.HARIDAS, NEEROZHUKKIL HOUSE,
   MULAVANA P.O., KUNDARA, KOLLAM.

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM, KOCHI-31.

2. REENA @ AIMY,
   W/O.SALUS LOPPUS, KALLUVILA HOUSE,
   PALLIMUKKU, KUNDARA EAST, KOLLAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3824 OF 2006

Dated this the 23rd day of November, 2006

ORDER

The petitioners are the accused in C.C.No.1072/05 filed by the 2nd respondent/complainant in which allegations are raised against them, inter alia, under Secs.452, 324 and 354 read with Sec.34 of the IPC. The averments in the complaint would show that at about 2.30 p.m. on 25/12/2003 some unpleasant incident took place in front of the house of the 2nd petitioner herein and that a sequel to that incident, the accused persons proceeded to the house of the complainant and indulged in the overt criminal acts alleged in the complaint. The incident took place at about 3.30 p.m. on 25/12/2003, it is alleged. According to the complainant, she had suffered injuries. She was examined by a Doctor. She has cited the Doctor as a witness and has also produced the O.P. ticket and the wound certificate before the learned Magistrate. The learned Magistrate took cognizance of the offences alleged against the petitioners and issued process to the petitioners.

2. The petitioners have come to this Court with this

petition under Sec.482 of the Cr.P.C. with a prayer that the complaint against them may be quashed.

3. What are the reasons? The learned counsel for the petitioners submits that the allegations are totally false. The real incident took place at 2.30 p.m. inside the house of the 2nd petitioner and later at 10.30 p.m. in the hospital where the 2nd petitioner was undergoing treatment. No incident had taken placed as alleged by the de facto complainant at 3.30 p.m. at her house.

4. In support of the contention that the allegations are false, the learned counsel for the petitioners places reliance on the F.I.R. registered by the police and the final report filed by the police on the basis of such F.I.R. That F.I.R. is lodged by the 2nd petitioner herein and is registered at 7 p.m. on 26/12/2003. Though the respondent/complainant has alleged in the complaint filed by her that she had complained to the police promptly, it is her case that the police had not taken any action on her complaint.

5. Having considered all the relevant inputs and having perused the averments in the complaint as also the relevant details in Annexures-A to C, I am of opinion that this is not a fit case where the extraordinary inherent jurisdiction available to this Court under Sec.482 of the Cr.P.C. can or ought to be

invoked. At this stage and with the available inputs, it is impossible for this Court to enter any authentic finding/ conclusion as to which version is correct. Ascertainment of the truth of the rival versions will certainly have to be made in the course of trial.

6. The fact that the 2nd petitioner had filed the earlier complaint or the fact that the police, after investigation, had filed a charge sheet after investigation in that crime is certainly not a sufficient reason to justify the quashing of the complaint filed by the respondent/complainant. In short, sufficient and compelling materials have not been shown to exist which can justify the quashing of the complaint initiated against the petitioners by invoking the powers under Sec.482 of the Cr.P.C.

7. This Crl.M.C. is, in these circumstances, dismissed. I may hasten to observe that the dismissal of this petition will not in any way fetter the rights of the petitioners to raise all appropriate contentions and press for a discharge/acquittal in the proceedings.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge